

HOUSE BILL No. 1218

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-26; IC 3-8-1-28; IC 3-13; IC 5-1-4-4; IC 5-11; IC 6-1.1; IC 7.1-3-9-7; IC 8-1.5; IC 8-22-3-30; IC 9-22-1-27; IC 10-18-4; IC 11-13-1-1; IC 32-21-2-3; IC 32-24-2-1; IC 33-35-3; IC 36.

Synopsis: Local government matters. Allows a third class city that adopts second class city status to elect a city clerk-treasurer instead of electing a city clerk and appointing a city controller. Allows the northwestern Indiana regional planning commission to pay a claim or purchase order without obtaining a vendor's signature. Requires a county, city, or township fiscal body to approve travel expenses of officials and certain deputies that attend a conference conducted by the state board of accounts. Allows a municipality with a department of storm water management to collect delinquent rates and charges by obtaining a lien on real property within the storm water district. Eliminates the requirement that a city legislative body hold its first regular meeting at 7:30 p.m. on a Monday. Increases the maximum term of a loan that a city or town may enter into from five to ten years. Eliminates the requirement that a city legislative body publish an ordinance that fixes the annual compensation of elected officials. Provides that the compensation of an incumbent elected city officer may not be changed in the year for which it is fixed or reduced below the amount fixed for the previous year. Allows a city or a town to pay meal expenses of city or town employees traveling on official business before the expenses are allowed by the board that has jurisdiction over allowance of the claims. Eliminates the annual requirement for a city to set a proposed property tax rate. Requires the county board of tax adjustment or the county auditor to set the rate, subject to review by the department of local government finance. Establishes a deadline of September 30 for a municipality to address property tax and budget matters and to set employee compensation for the following year. Removes a reference to a repealed statute.

Effective: July 1, 2005.

Ayres, Stevenson, Hinkle

January 6, 2005, read first time and referred to Committee on Local Government.



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1218

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-2-26 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 26. "Fiscal officer" means **the:**
3 **(1) the city controller or clerk-treasurer** of a second class city;
4 **or**
5 **(2) the clerk-treasurer** of a town; or
6 **(3) clerk-treasurer of a** third class city.
7 SECTION 2. IC 3-8-1-28 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2005]: Sec. 28. A candidate for the office of
9 city clerk of a second class city, **or city clerk-treasurer of a second**
10 **class city, or** city clerk-treasurer of a third class city must have resided
11 in the city for at least one (1) year before the election.
12 SECTION 3. IC 3-13-8-5 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A vacancy in the office of
14 mayor of a second class city not covered by section 1 of this chapter
15 shall be filled as follows:
16 (1) If the city has a deputy mayor, the deputy mayor assumes the
17 office for the remainder of the unexpired term.



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(2) If the city does not have a deputy mayor, the city controller **or city clerk-treasurer** assumes the office for the remainder of the unexpired term.

(3) If the city does not have a deputy mayor and the office of city controller **or city clerk-treasurer** is vacant, the common council shall fill the vacancy at a regular or special meeting.

(b) The city clerk **or president of the common council** shall give notice of the meeting required under subsection (a)(3), which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

SECTION 4. IC 3-13-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A vacancy in the office of city clerk of a second class city **or city clerk-treasurer of a second class city** not covered by section 1 of this chapter shall be filled by the mayor or acting mayor, subject to the approval of the common council.

(b) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held within thirty (30) days after the appointment is made. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 5. IC 3-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A vacancy in the common council of a second class city not covered by section 1 of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city clerk **or city clerk-treasurer** shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten

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(10) days before the meeting.

SECTION 6. IC 3-13-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In accordance with section 12 of this chapter, if the position of deputy mayor is not established by ordinance in a first class or second class city, the city controller **or city clerk-treasurer** assumes the duties of mayor until the office is filled under this chapter.

SECTION 7. IC 5-1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of any county, second or third class city, or town in which is located one (1) or more participating hospitals, upon request in writing by the board of trustees or other governing board of any such participating hospital, may adopt a resolution for the creation of an authority under this chapter.

(b) Upon the adoption of the resolution, there is created an authority which shall be a body corporate and politic for the purpose of financing, acquiring, constructing, equipping, and leasing a project or projects to participating hospitals located in the county, city, or town or refunding outstanding indebtedness of participating hospitals located in the county, city, or town as authorized by this chapter, or both.

(c) If the authority is created by a resolution of the legislative body of a county, it shall be known as the "Hospital Authority of _____ County" (include the name of the county).

(d) If the authority is created by resolution of the legislative body of a second or third class city or town, it shall be known as the "Hospital Authority of _____" (include the name of the city or town).

(e) The county auditor, the city clerk, **the city clerk-treasurer**, or the town clerk-treasurer, as the case may be, shall file a certified copy of the resolution with the executive of the county, city, or town, as the case may be, in which the authority is created.

SECTION 8. IC 5-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

- (1) The state universities.
- (2) Ivy Tech State College.
- (3) A municipality (as defined in IC 36-1-2-11).
- (4) A county.
- (5) An airport authority operating in a consolidated city.
- (6) A capital improvements board of managers operating in a consolidated city.
- (7) A board of directors of a public transportation corporation

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operating in a consolidated city.

(8) A municipal corporation organized under IC 16-22-8-6.

(9) A public library.

(10) A library services authority.

(11) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.

(12) A school corporation (as defined in IC 36-1-2-17).

(13) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(14) A municipally owned utility (as defined in IC 8-1-2-1).

(15) A board of an airport authority under IC 8-22-3.

(16) A conservancy district.

(17) A board of aviation commissioners under IC 8-22-2.

(18) A public transportation corporation under IC 36-9-4.

(19) A commuter transportation district under IC 8-5-15.

(20) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(21) A county building authority under IC 36-9-13.

(22) A soil and water conservation district established under IC 14-32.

(23) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(b) No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.

(c) The certificate provided for in subsection (b) is not required for:

(1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated by a governmental body;

(2) a warrant issued by the auditor of state under IC 4-13-2-7(b);

(3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or

(4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).

(d) The disbursing officer shall issue checks or warrants for all claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certificate provided for in subsection (b) must be in the

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following form:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

SECTION 9. IC 5-11-10-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

- (1) A municipality (as defined in IC 36-1-2-11).
- (2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.
- (3) A county.
- (4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
- (5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.
- (6) A board of an airport authority under IC 8-22-3.
- (7) A board of aviation commissioners under IC 8-22-2.
- (8) A conservancy district.
- (9) A public transportation corporation under IC 36-9-4.
- (10) A commuter transportation district under IC 8-5-15.
- (11) The state.
- (12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
- (13) A levee authority established under IC 14-27-6.
- (14) A county building authority under IC 36-9-13.
- (15) A soil and water conservation district established under IC 14-32.

(16) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over

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allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-10.1-25-3.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

SECTION 10. IC 5-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;

(2) may be held statewide or by district; and

(3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

(1) The proper use of forms prescribed by the state board of accounts.

(2) The keeping of the records of the respective offices.

(3) At the conference for county treasurers and treasurers elect, investment training by the following:

(A) The treasurer of state.

(B) The board for depositories.

(C) Any other person the state examiner considers to be

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- 1 competent in providing investment training.
- 2 (4) Any other training that, in the judgment of the state examiner,
- 3 will result in the better conduct of the public business.
- 4 (e) The state examiner may hold other conferences for:
- 5 (1) the officials described in subsection (b); or
- 6 (2) other county, city, or township officers;
- 7 whenever in the judgment of the state examiner conferences are
- 8 necessary.
- 9 (f) Whenever a conference is called by the state board of accounts
- 10 under this section, an elected official, at the direction of the state
- 11 examiner, may require the attendance of:
- 12 (1) each of the elected official's appointed and acting chief
- 13 deputies or chief assistants; and
- 14 (2) if the number of deputies or assistants employed:
- 15 (A) does not exceed three (3), one (1) of the elected official's
- 16 appointed and acting deputies or assistants; or
- 17 (B) exceeds three (3), two (2) of the elected official's duly
- 18 appointed and acting deputies or assistants.
- 19 (g) **The fiscal body of a unit shall approve the following**
- 20 **expenditures for each official representing the unit and attending**
- 21 **any conference under this section: ~~shall be allowed;~~**
- 22 **(1) A sum for mileage at a rate determined by the fiscal body**
- 23 **of the unit the official represents for each mile necessarily**
- 24 **traveled in going to and returning from the conference by the**
- 25 **most expeditious route. ~~a sum for mileage at a rate determined by~~**
- 26 **the fiscal body of the unit the official represents. Regardless of**
- 27 **the duration of the conference, only one (1) mileage**
- 28 **reimbursement shall be allowed to the official furnishing the**
- 29 **conveyance although the official transports more than one (1)**
- 30 **person.**
- 31 **(2) ~~Each official shall also be allowed, while attending a~~**
- 32 **~~conference called under this section;~~ An allowance for lodging for**
- 33 **each night preceding conference attendance in an amount equal**
- 34 **to the single room rate. However, lodging expense, in the case of**
- 35 **a one (1) day conference, shall only be allowed for persons who**
- 36 **reside fifty (50) miles or farther from the conference location.**
- 37 **(3) ~~Each official shall be reimbursed;~~ Reimbursement of an**
- 38 **official in an amount determined by the fiscal body of the unit the**
- 39 **official represents, for meals purchased while attending a**
- 40 **conference called under this section. ~~Regardless of the duration~~**
- 41 **~~of the conference, only one (1) mileage reimbursement shall be~~**
- 42 **~~allowed to the official furnishing the conveyance although the~~**

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~~official transports more than one (1) person.~~

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

SECTION 11. IC 6-1.1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a) As used in this section, "city" has the meaning set forth in IC 36-1-2-3.**

~~(a)~~ **(b) Except as provided in subsection (e),** the proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

~~(b)~~ **(c)** The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection ~~(a)~~: **(b)**:

- (1) in any county of the solid waste management district; and
- (2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

~~(c)~~ **(d)** The trustee of each township in the county shall estimate the amount necessary to meet the cost of ~~poor relief township assistance~~ in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of ~~poor relief township assistance~~. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township ~~poor relief assistance~~ fund.

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(e) The officers of a city:

(1) are not required to formulate a proposed tax rate for the city; and

(2) shall comply with subsection (b), except for the requirement to formulate a proposed tax rate.

SECTION 12. IC 6-1.1-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate (**if the political subdivision is required by law to fix the tax rate**), and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.

(2) The fiscal body of a ~~second class city~~, **municipality**, not later than September 30.

(3) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) September 20 if a resolution adopted under section 5.6(d) of this chapter is in effect.

(4) The proper officers of all other political subdivisions, not later than September 20.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate (**if the political subdivision is required by law to fix the tax rate**), and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

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(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate **(if the political subdivision is required by law to fix the tax rate)** and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate **(if the fiscal body is required by law to fix a tax rate)**, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 13. IC 6-1.1-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The county board of tax adjustment shall review the budget, tax rate, and tax levy of each political subdivision filed with the county auditor under section 5 or 5.6 of this chapter. The board shall revise or reduce, but not increase, any budget, tax rate, or tax levy in order:

(1) to limit the tax rate to the maximum amount permitted under IC 6-1.1-18; and

(2) to limit the budget to the amount of revenue to be available in the ensuing budget year for the political subdivision.

The board shall set the tax rate for each city that files a budget and tax levy with the county auditor under section 5 of this chapter.

(b) The county board of tax adjustment shall make a revision or reduction in a political subdivision's budget only with respect to the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

(c) When the county board of tax adjustment:

(1) sets the tax rate of a city under subsection (a); or

(2) makes a revision or reduction in a budget, tax rate, or tax levy;

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1 **it the board** shall file with the county auditor a written order which
 2 indicates the action taken. If the board reduces the budget, it shall also
 3 indicate the reason for the reduction in the order. The chairman of the
 4 county board shall sign the order.

5 SECTION 14. IC 6-1.1-17-7 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. If the boundaries of
 7 a political subdivision cross one (1) or more county lines, the **political**
 8 **subdivision shall file the** budget, tax levy, and tax rate **(if the political**
 9 **subdivision is required by law to fix the tax rate)** fixed by the
 10 political subdivision ~~shall be filed~~ with the county auditor of each
 11 affected county in the manner prescribed in section 5 or 5.6 of this
 12 chapter. The board of tax adjustment of the county which contains the
 13 largest portion of the value of property taxable by the political
 14 subdivision, as determined from the abstracts of taxable values last
 15 filed with the auditor of state, has jurisdiction over the budget, tax rate,
 16 and tax levy to the same extent as if the property taxable by the
 17 political subdivision were wholly within the county. The secretary of
 18 the county board of tax adjustment shall notify the county auditor of
 19 each affected county of the action of the board. Appeals from actions
 20 of the county board of tax adjustment may be initiated in any affected
 21 county.

22 SECTION 15. IC 6-1.1-18-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. When fixing a
 24 budget, tax rate **(if the political subdivision is required by law to fix**
 25 **a tax rate)**, and tax levy under IC 6-1.1-17-5, the officers of a political
 26 subdivision may not fix a budget or tax levy which exceeds the amount
 27 published by the political subdivision. The portion of a budget or tax
 28 levy which exceeds the published amount is void.

29 SECTION 16. IC 6-1.1-18-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as
 31 provided in subsection (b), the sum of all tax rates for all political
 32 subdivisions imposed on tangible property within a political
 33 subdivision may not exceed:

34 (1) forty-one and sixty-seven hundredths cents (\$0.4167) on each
 35 one hundred dollars (\$100) of assessed valuation in territory
 36 outside the corporate limits of a city or town; or

37 (2) sixty-six and sixty-seven hundredths cents (\$0.6667) on each
 38 one hundred dollars (\$100) of assessed valuation in territory
 39 inside the corporate limits of a city or town.

40 (b) The proper officers of a political subdivision shall fix tax rates
 41 ~~which~~ **(if the political subdivision is required by law to fix tax rates)**
 42 **that** are sufficient to provide funds for the purposes itemized in this

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subsection. The portion of a tax rate fixed by a political subdivision shall not be considered in computing the tax rate limits prescribed in subsection (a) if that portion is to be used for one (1) of the following purposes:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.

(2) To pay the principal or interest on an outstanding obligation issued by the political subdivision if notice of the sale of the obligation was published before March 9, 1937.

(3) To pay the principal or interest upon:

(A) an obligation issued by the political subdivision to meet an emergency which results from a flood, fire, pestilence, war, or any other major disaster; or

(B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 to enable a city, town, or county to acquire necessary equipment or facilities for municipal or county government.

(4) To pay the principal or interest upon an obligation issued in the manner provided in IC 6-1.1-20-3 (before its repeal) or IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2.

(5) To pay a judgment rendered against the political subdivision.

(6) To meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1).

(7) To meet the requirements of the county hospital care for the indigent fund.

(8) To meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1).

(c) Except as otherwise provided in IC 6-1.1-19 or IC 6-1.1-18.5, a county board of tax adjustment, a county auditor, or the department of local government finance may review the portion of a tax rate described in subsection (b) only to determine if it exceeds the portion actually needed to provide for one (1) of the purposes itemized in that subsection.

SECTION 17. IC 6-1.1-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. An officer of state or local government who recklessly violates or fails to perform a duty imposed on ~~him~~ **the officer** under:

(1) IC 6-1.1-10-1(b);

(2) IC 6-1.1-12-6;

(3) IC 6-1.1-12-7;

~~(4) IC 6-1.1-12-8;~~

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~~(5)~~ (4) IC 6-1.1-17-1;
~~(6)~~ ~~IC 6-1.1-17-3(a)~~;
(5) IC 6-1.1-17-3(b);
~~(7)~~ (6) IC 6-1.1-17-5(d)(1);
~~(8)~~ (7) IC 6-1.1-18-1;
~~(9)~~ (8) IC 6-1.1-18-5;
~~(10)~~ (9) IC 6-1.1-18-6;
~~(11)~~ (10) IC 6-1.1-20-5;
~~(12)~~ (11) IC 6-1.1-20-6;
~~(13)~~ (12) IC 6-1.1-20-7;
~~(14)~~ (13) IC 6-1.1-30-14; or
~~(15)~~ (14) IC 6-1.1-36-13;

commits a Class A misdemeanor. In addition, the officer is liable for the damages sustained by a person as a result of the officer's violation of the provision or the officer's failure to perform the duty.

SECTION 18. IC 7.1-3-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~Ordinance Sent to Commission.~~ The city clerk, **city clerk-treasurer**, or town ~~clerk~~ **clerk-treasurer** of a city or town in which an ordinance proscribed by ~~IC 1971, 7.1-3-9-6, IC 7.1-3-9-6~~ has been enacted, shall, immediately upon the enactment, certify a copy of the ordinance and mail it by registered mail to the commission. The commission, out of its expenses, shall pay the clerk one dollar ~~(\$1.00)~~, **(\$1)** for ~~his~~ **the clerk's** services in the matter.

SECTION 19. IC 8-1.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. "Fiscal officer" means:

- (1) controller **or clerk-treasurer**, for a second class city;
- (2) clerk-treasurer, for a third class city; or
- (3) clerk-treasurer, for a town.

SECTION 20. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after holding a public hearing with notice given

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under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) This subsection applies only to a municipality. In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the municipality are a lien on a lot, parcel of land, or building within the storm water district. The liens:

- (1) attach;**
- (2) are recorded;**
- (3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and**
- (4) shall be collected and enforced;**

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-34.

~~(d)~~ (e) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

- (1) A flat charge for each lot, parcel of property, or building.
- (2) The amount of impervious surface on the property.
- (3) The number and size of storm water outlets on the property.
- (4) The amount, strength, or character of storm water discharged.
- (5) The existence of improvements on the property that address storm water quality and quantity issues.
- (6) The degree to which storm water discharged from the property affects water quality in the storm water district.
- (7) Any other factors the board considers necessary.

~~(e)~~ (f) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

- (1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;
- (2) variations in the number of users in various locations; and

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(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

SECTION 21. IC 8-22-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. (a) All expenses incurred by the board that must be paid prior to the collection of taxes levied under this chapter shall be met and paid in the following manner. The board shall from time to time certify the items of expense to the ~~city~~ controller, ~~of the city~~, **city clerk-treasurer, town clerk-treasurer, or county auditor** of the county in which the district is located, directing ~~him~~ **the city controller, city clerk-treasurer, town clerk-treasurer, or county auditor** to pay the amounts. ~~and~~ The fiscal officer shall draw ~~his~~ **a** warrant or warrants upon the treasurer of the city, town, or county, as applicable, which warrant or warrants shall be paid out of the general funds of the city, town, or county not already appropriated, without special appropriations being made by the fiscal body or approval by any other body.

(b) In case there are no unappropriated general funds of the city, town, or county, the fiscal officer shall recommend to the fiscal body the temporary transfer, from other funds of the city, town, or county, of a sufficient amount to meet the items of expense or the making of a temporary loan for the purpose. The fiscal body affected shall immediately make the transfer of funds or authorize the temporary loans in the same manner that other transfers and temporary loans are made by the city, town, or county. The total amount to be advanced may not exceed fifty thousand dollars (\$50,000) and the fund or funds of the city, town, county, or other entity from which the advancement is made shall be fully reimbursed and repaid by the authority out of the first proceeds of the special taxes levied under this chapter. No part of the funds advanced may be used in the acquisition of real property.

SECTION 22. IC 9-22-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) This section applies to sales of abandoned vehicles or parts by local units.

(b) The proceeds from the sale of abandoned vehicles or parts, including:

(1) charges for bills of sale; and

(2) money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles;

shall be deposited with the county treasurer, ~~or the city controller, or the city clerk-treasurer of a second class city~~, and placed by the ~~county~~ treasurer, ~~or city controller, or city clerk-treasurer~~ in the unit's abandoned vehicle fund.

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(c) The costs incurred by a public agency in administering this chapter shall be paid from the abandoned vehicle fund.

(d) The fiscal body shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

(e) Notwithstanding subsection (d), the fiscal body of a consolidated city may transfer money from the fund.

SECTION 23. IC 10-18-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The legislative body of a city may, upon recommendation of the mayor and city controller **or city clerk-treasurer**, if applicable, by ordinance adopted and approved as provided in section 22 of this chapter, appropriate for the use of the board of public works of the city money of the city for World War memorial and other public purposes.

(b) Any money and the total of all money appropriated under this chapter may not exceed six-tenths of one percent (0.6%) of the adjusted value of the taxable property of the city as determined under IC 36-1-15.

(c) The board of public works, with the approval of the mayor, may use the funds so appropriated for any of the purposes described in section 2 of this chapter.

SECTION 24. IC 10-18-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A city may appropriate money for use of the board of public works of the city for any of the purposes provided in this chapter, either out of the general funds of the city or from the proceeds of a bond issue for those purposes.

(b) A city may sell bonds for the purpose of raising funds to comply with this chapter.

(c) Except as provided in this chapter, the appropriation of money and the sale of bonds by a city is governed by the law relating to the appropriation of money and the sale of bonds by the city for other city purposes.

(d) The legislative body of a city may, by ordinance adopted and approved as provided in section 22 of this chapter, do any of the following:

- (1) Authorize the city controller **or city clerk-treasurer**, if applicable, and the mayor, in the name of the city, to make permanent loans of money for any of the purposes of this chapter of any amount not more than six-tenths of one percent (0.6%) of the adjusted value of taxable property of the city as determined

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under IC 36-1-15.

(2) Authorize the city controller **or city clerk-treasurer**, if applicable, and mayor of the city to issue bonds for the purpose of funding or refunding loans made by the city under this chapter. Except as provided in this chapter, any loans must be made and governed by the law concerning permanent loans by cities. Any bonds must satisfy all of the following:

(A) The bonds may be issued in any denomination of not more than one thousand dollars (\$1,000) each and in not less than twenty (20) or more than fifty (50) series. Each series must be for the amount as provided by the ordinance.

(B) The bonds must be payable one (1) series each year, beginning on July 1 of the fifth year after the issue of the bonds.

(C) The bonds must be negotiable as inland bills of exchange.

(D) The bonds must bear interest at the rate of not more than six percent (6%) a year, payable semiannually on July 1 and January 1 of each year.

(3) Authorize the city controller **or the city clerk-treasurer**, if applicable, and mayor, in advertising for the sale of bonds, to ask for competitive bids on the bonds on any series of not less than twenty (20) nor more than fifty (50). The city controller **or the city clerk-treasurer**, if applicable, and mayor may accept the bid that, in their judgment, is the most advantageous bid to the city.

(e) Bonds issued under this chapter are exempt from taxation for all purposes.

(f) A series of bonds issued under this chapter may not be for less than two percent (2%) of the total amount of bonds issued.

(g) The proceeds of bonds sold under this chapter by the city, including any premium on the bonds, must be kept as a separate and specific fund, to be known as the World War memorial fund. Money in the fund may be used only for any of the purposes described in section 2 of this chapter.

(h) The city legislative body may, by ordinance, transfer to the World War memorial bond fund any surplus finally remaining in the World War memorial fund, after all the demands on the city for money in the World War memorial fund have been paid and discharged.

(i) A suit to question the validity of any bond issued under this chapter may not be instituted after the date set for the sale of the bonds. All bonds, beginning on the date set for the sale of the bonds, are incontestable for any cause.

SECTION 25. IC 10-18-4-18 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The legislative body of a city may, upon the recommendation of the mayor and city controller **or city clerk-treasurer**, if applicable, of the city, instead of selling bonds as provided in section 5 of this chapter, sell bonds:

- (1) with a maturity of not more than ten (10) years;
- (2) for any of the purposes authorized by this chapter;
- (3) at a rate of interest not more than six percent (6%) a year, payable semiannually; and
- (4) payable at their maturity, but not later than ten (10) years after the date of the issuance of the bonds.

If the bonds are issued for a period longer than five (5) years, at least two percent (2%) of the total issue of the bonds must mature each year after the fifth year, and the balance must mature and be paid or refunded not later than ten (10) years after the date of issuance.

(b) Bonds issued under this section, the taxes to pay the bonds as they mature, and interest accruing on the bonds must be levied in accordance with sections 5 and 6 of this chapter.

(c) The city's legislative body may refund bonds sold under this section with other bond issues in accordance with section 5 and other provisions of this chapter relating to the sale of bonds. The city's legislative body may name the date when the first series of refunding bonds is due. However, the due date of the first series due may not be more than five (5) years from the date of issue.

SECTION 26. IC 11-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A court or division of a court authorized to impose probation shall appoint one (1) or more probation officers, depending on the needs of the court, except that two (2) or more divisions within a court, two (2) or more courts within a county, or two (2) or more courts not in the same county may jointly appoint and employ one (1) or more probation officers for the purpose of meeting the requirements of this section.

(b) A person may be appointed as a probation officer after the effective date established by the judicial conference of Indiana only if that person meets the minimum employment qualifications adopted by the conference, except that this requirement does not apply to any person certified as a qualified probation officer before that effective date. Any uncertified person appointed as a probation officer after the effective date who fails to successfully complete the written examination established under section 8 of this chapter within six (6) months after the date of the person's appointment is prohibited from exercising the powers of a probation officer as granted by law.

(c) Probation officers shall serve at the pleasure of the appointing

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1 court and are directly responsible to and subject to the orders of the
 2 court. The amount and time of payment of salaries of probation officers
 3 shall be fixed by the county, city, or town fiscal body in accordance
 4 with the salary schedule adopted by the county, city, or town fiscal
 5 body under IC 36-2-16.5. The salary of a probation officer shall be paid
 6 out of the county, city, or town treasury by the county auditor, ~~or~~ city
 7 controller, **or city clerk-treasurer**. Probation officers are entitled to
 8 their actual expenses necessarily incurred in the performance of their
 9 duties. Probation officers shall give a bond if the court so directs in a
 10 sum to be fixed by the court.

11 (d) A court, or two (2) or more courts acting jointly, may designate
 12 a probation officer to direct and supervise the work of the probation
 13 department.

14 SECTION 27. IC 32-21-2-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. For a conveyance, a
 16 mortgage, or an instrument of writing to be recorded, it must be:

17 (1) acknowledged by the grantor; or

18 (2) proved before a:

19 (A) judge;

20 (B) clerk of a court of record;

21 (C) county auditor;

22 (D) county recorder;

23 (E) notary public;

24 (F) mayor of a city in Indiana or any other state;

25 (G) commissioner appointed in a state other than Indiana by
 26 the governor of Indiana;

27 (H) minister, charge d'affaires, or consul of the United States
 28 in any foreign country;

29 (I) clerk of the city county council for a consolidated city, city
 30 clerk **or clerk-treasurer** for a second class city, or
 31 clerk-treasurer for a third class city;

32 (J) clerk-treasurer for a town; or

33 (K) person authorized under IC 2-3-4-1.

34 SECTION 28. IC 32-24-2-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
 36 chapter, "fiscal officer" means:

37 (1) the city controller of a consolidated city; ~~or~~

38 **(2) the city controller or the city clerk-treasurer of a second**
 39 **class city;**

40 ~~(2)~~ **(3)** the city clerk-treasurer of a third class city; or

41 ~~(3)~~ **(4)** the town clerk-treasurer of a town.

42 SECTION 29. IC 33-35-3-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The officers of a city court are a:

- (1) judge;
- (2) clerk; and
- (3) bailiff.

However, in third class cities **and in second class cities that elect a clerk-treasurer**, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

SECTION 30. IC 33-35-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) In ~~a second class cities~~, **city that does not elect a clerk-treasurer**, the city clerk is the clerk of the city court.

(b) In a second class city that is not described in subsection (a) and ~~the city clerk of~~ in a third class city, the clerk-treasurer is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

~~(b)~~ **(c)** A city clerk **or city clerk-treasurer** of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

~~(c)~~ **(d)** The clerk may administer oaths.

~~(d)~~ **(e)** The clerk of a city or town court shall:

- (1) issue all process of the court, affix the seal of the court to the process, and attest to the process;
- (2) keep a complete record and docket of all cases showing:
 - (A) the name of a person who was arrested and brought before the court;
 - (B) the disposition of the case; and
 - (C) an account of the:
 - (i) fees;
 - (ii) fines;

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- 1 (iii) penalties;
 2 (iv) forfeitures;
 3 (v) judgments;
 4 (vi) executions;
 5 (vii) decrees; and
 6 (viii) orders;
 7 in as near to the same manner as the records are kept by the
 8 clerk of the circuit court; and
 9 (3) collect all:
 10 (A) fees;
 11 (B) fines;
 12 (C) penalties and forfeitures;
 13 (D) judgments;
 14 (E) executions; and
 15 (F) money;
 16 accruing to the city or town from the enforcement of ordinances.
 17 ~~(e)~~ (f) At the close of each week, the clerk shall make and deliver to
 18 the city controller of a second class city, **clerk-treasurer of a second**
 19 **class city**, clerk-treasurer of a third class city, or clerk-treasurer of a
 20 town a written report of all cases in which the clerk has received or
 21 collected any fines or forfeitures due the city or town. The clerk shall
 22 then pay over the money to the controller or clerk-treasurer and take a
 23 receipt for the payment.
 24 ~~(f)~~ (g) At the end of each month, the clerk shall make out and
 25 deliver to the county treasurer of the county in which the city or town
 26 is located a written report of all cases in which the clerk has received
 27 or collected any fines or forfeitures due the state during the month and
 28 pay to the county treasurer all fines or forfeitures collected, taking a
 29 receipt for the payment.
 30 ~~(g)~~ (h) In cities in which the county treasurer rather than the city
 31 controller receives city money for deposit, the clerk shall report and
 32 deliver the money to the county treasurer.
 33 ~~(h)~~ (i) The clerk shall deposit all court costs collected by the clerk
 34 in accordance with IC 33-37-7-12. The clerk shall distribute the state
 35 and county share of court costs collected in accordance with
 36 IC 33-37-7-7 or IC 33-37-7-8.
 37 SECTION 31. IC 33-35-3-9 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section
 39 applies after June 30, 2005.
 40 (b) A clerk of a city court in a county having a population of more
 41 than four hundred thousand (400,000) but less than seven hundred
 42 thousand (700,000) shall deposit all court costs collected by the clerk

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1 in accordance with IC 33-37-7-12.

2 (c) The fees received by the controller ~~from the clerk or the city~~
3 **clerk-treasurer** shall be paid into the city treasury at the time of the
4 semiannual settlement for city revenue.

5 ~~(c)~~ (d) If the party instituting an action or a proceeding recovers
6 judgment, the judgment must also include as costs an amount equal to
7 the small claims costs fee and the small claims service fee prescribed
8 under IC 33-37-4-5 or IC 33-37-4-6.

9 ~~(d)~~ (e) Money paid in advance for costs remaining unexpended at
10 the time a civil action or proceeding is terminated, whether by reason
11 of dismissal or otherwise, must be returned to the party or parties
12 making payment. However, this section does not apply to civil actions
13 or proceedings instituted by or on behalf of the state or any of the
14 state's political subdivisions.

15 SECTION 32. IC 36-1-2-4 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Clerk" means:

- 17 (1) clerk of the circuit court, for a county;
- 18 (2) county auditor, for a board of county commissioners or county
19 council;
- 20 (3) clerk of the city-county council, for a consolidated city;
- 21 (4) city clerk **or city clerk-treasurer** for a second class city;
- 22 (5) clerk-treasurer, for a third class city; or
- 23 (6) clerk-treasurer, for a town.

24 SECTION 33. IC 36-1-2-7 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "Fiscal officer"
26 means:

- 27 (1) auditor, for a county;
- 28 (2) controller, for a consolidated city; ~~or~~
- 29 **(3) controller or clerk-treasurer for a second class city;**
- 30 ~~(3)~~ (4) clerk-treasurer, for a third class city;
- 31 ~~(4)~~ (5) clerk-treasurer, for a town; or
- 32 ~~(5)~~ (6) trustee, for a township.

33 SECTION 34. IC 36-4-1-1.1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) Except as
35 provided in subsection (b), a third class city remains a third class city
36 even though the city attains a population of at least thirty-five thousand
37 (35,000) at a federal decennial census.

38 (b) The legislative body of a city to which subsection (a) applies
39 may, by ordinance, adopt second class city status.

40 (c) **After June 30, 2005, a third class city may, in the ordinance**
41 **adopting second class status, choose to elect a city clerk-treasurer**
42 **of the second class city. A city that adopts an ordinance to elect a**

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city clerk-treasurer of the second class city under this subsection may not elect or appoint the following:

(1) A city clerk.

(2) A city controller.

SECTION 35. IC 36-4-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The legislative body shall hold its first regular meeting ~~in its chamber at 7:30 p.m. on the first Monday~~ in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month, unless its rules require more frequent meetings.

(b) A special meeting of the legislative body shall be held when called by the city executive or when called under the rules of the legislative body.

SECTION 36. IC 36-4-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This subsection applies only to second class cities. At its first regular meeting under section 7 of this chapter, and ~~on the first Monday of~~ each succeeding January, the legislative body shall choose from its members a president and a vice president.

(b) This subsection applies only to third class cities. The city executive shall preside at all meetings of the legislative body, but may vote only in order to break a tie. At its first regular meeting under section 7 of this chapter, and ~~on the first Monday of~~ each succeeding January, the legislative body shall choose from its members a president pro tempore to preside whenever the executive is absent.

SECTION 37. IC 36-4-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The legislative body may, by ordinance, make loans of money for not more than ~~five~~ **(5) ten (10)** years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing ~~five~~ **(5) ten (10)** years to provide for refunding the loans; and

(2) the loans must be evidenced by notes of the city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

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Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

(b) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than ~~five (5)~~ **ten (10)** years. Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

(2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(c) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

SECTION 38. IC 36-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. ~~The ordinance must be published under IC 5-3-1, with the first publication at least thirty (30) days before final passage by the legislative body.~~

(c) The compensation of an **incumbent** elected city officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

SECTION 39. IC 36-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section ~~before~~

~~(+) September 20 for a third class city; and~~

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(2) ~~September 30 for a second class city;~~
not later than September 30 of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 40. IC 36-4-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The fiscal officer shall present the report of budget estimates to the city legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance ~~fixing the rate of taxation for the ensuing budget year and an ordinance~~ making appropriations for the estimated department budgets and other city purposes during the ensuing budget year. The legislative body, in the appropriation ordinance, may reduce any estimated item from the figure submitted in the report of the fiscal officer, but it may increase an item only if the executive recommends an increase. The legislative body shall promptly act on the appropriation ordinance.

(b) In preparing the ~~ordinances~~ **ordinance** described in subsection (a), the legislative body shall make an allowance for the cost of fire protection to annexed territory described in IC 36-4-3-7(d) for the year fire protection is first offered to that territory.

SECTION 41. IC 36-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. If the city legislative body does not pass the ~~ordinances~~ **ordinance** required by section 7 of this chapter ~~on or before~~

~~(1) September 20 for a third class city; and~~

~~(2) September 30 for a second class city;~~

before October 1 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 42. IC 36-4-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A city legislative body may adopt an ordinance allowing money to be disbursed for lawful city purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the city fiscal officer may make claim payments in advance of board allowance for the following kinds of expenses if the city legislative body has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United

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States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State, federal, or county taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

(14) Meal expense advances to city employees who will be traveling on official business of the city.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(d) The city legislative body or the city board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

SECTION 43. IC 36-4-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies only to second class cities.

(b) The city executive shall appoint:

(1) a city controller, **if the city does not elect a city clerk-treasurer;**

(2) a city civil engineer;

(3) a corporation counsel;

(4) a chief of the fire department;

(5) a chief of the police department; and

(6) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety may be composed of three (3) members or five (5) members appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The executive shall appoint a clerk for the board.

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(d) If the board of public works and board of public safety are established as separate boards, each board may be composed of three (3) members or five (5) members who are appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. The executive shall appoint a clerk for each board.

SECTION 44. IC 36-4-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A city clerk shall be elected under IC 3-10-6 by the voters of each second class city ~~and~~ **if the city does not elect a city clerk-treasurer.** A city clerk-treasurer shall be elected under IC 3-10-6 by the voters of each:

(1) second class city that establishes the office of city clerk-treasurer under IC 36-4-1-1.1; and

(2) third class city.

(b) The city clerk or clerk-treasurer is the clerk of each city.

(c) The city controller appointed under IC 36-4-9-6 is the fiscal officer of each second class city ~~and that does not elect a city clerk-treasurer.~~ The city clerk-treasurer is the fiscal officer of each:

(1) second class city that establishes the office of clerk-treasurer under IC 36-4-1-1.1; and

(2) third class city.

(d) The city controller of a second class city is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the city controller's duty as fiscal officer of the second class city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

(e) The term of office of a city clerk or clerk-treasurer is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

SECTION 45. IC 36-4-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) This section applies to:

(1) third class cities; and

(2) second class cities that elect a city clerk-treasurer.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Receive and care for all city money and pay the money out only on order of the approving body.

(2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.

(3) Prescribe payroll and account forms for all city offices.

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(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the city and make investments of city money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue **and** financial statements. ~~and the proposed tax rate.~~

(7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.

(9) Perform all other duties prescribed by statute.

(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

SECTION 46. IC 36-4-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to ~~second class cities~~: **a second class city that has a city controller.**

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Prescribe the form of reports and accounts to be submitted to the department.

(2) Sign and issue all warrants on the city treasury.

(3) Audit and revise all accounts and trusts in which the city is concerned.

(4) Keep separate accounts for each item of appropriation made for each city department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.

(5) At the end of each fiscal year, submit under oath to the city legislative body a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.

(6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.

(7) Perform duties prescribed by statute concerning the negotiation of city bonds, notes, and warrants.

(8) Keep a register of bonds of the city and of transfers of those bonds.

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(9) Manage the finances and accounts of the city and make investments of city money, subject to the ordinances of the legislative body.

(10) Issue city licenses on payment of the license fee.

(11) Collect fees as fixed by ordinance.

(12) Pay into the city treasury, once each week, all fees and other city money collected by the department during the preceding week, specifying the source of each item.

(13) Prescribe payroll and account forms for all city offices.

(14) Prescribe the manner in which salaries shall be drawn.

(15) Prescribe the manner in which creditors, officers, and employees shall be paid.

(16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.

(17) Notify the city executive of the failure of any city officer to collect money due the city or to pay city money into the city treasury.

(18) Draw warrants on the city treasury for miscellaneous city expenditures not made under the direction of a department and not specifically fixed by statute.

SECTION 47. IC 36-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) This section applies to third class cities **and to second class cities that elect a city clerk-treasurer.**

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under IC 33-35-3-1, the clerk shall serve as clerk of the city court.

SECTION 48. IC 36-5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and

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at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than ~~five (5)~~ **ten (10)** years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing ~~five (5)~~ **ten (10)** years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

SECTION 49. IC 36-5-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the town that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than ~~five (5)~~ **ten (10)** years. Loans under this section shall be made in the same manner as loans made under section 11(b) and 11(c) of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to the payment of the loans a sufficient amount of the revenues in anticipation of which the loans are issued and out of which the loans are payable; and

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(2) the loans must be evidenced by time warrants of the town in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(b) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

SECTION 50. IC 36-5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected town officer for performing duties as a town officer, regardless of the source of funds from which the money is paid.

(b) The town legislative body shall, by ordinance, fix the compensation of its own members, the town clerk-treasurer, and the town marshal. The legislative body shall provide reasonable compensation for other town officers and employees.

(c) The compensation of an elected town officer:

(1) must be fixed under this section not later than September 30 of each year for the ensuing budget year; and

(2) may not be:

(A) changed in the year for which it is fixed; ~~nor may it be or~~

(B) reduced below the amount fixed for the previous year.

(d) The legislative body may provide that town officers and employees receive additional compensation for services that:

(1) are performed for the town;

(2) are not governmental in nature; and

(3) are connected with the operation of a municipally owned utility or function.

Subject to the approval of the legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

SECTION 51. IC 36-5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The legislative body of a town may adopt an ordinance allowing money to be disbursed under this section for lawful town purposes.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over allowance of the claim, a town fiscal officer may make claim payments in advance of a board allowance for the following types of expenses if the town legislative body has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from:

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- 1 (A) the United States government; or
- 2 (B) an agency or a political subdivision of the United States
- 3 government.
- 4 (2) License fees or permit fees.
- 5 (3) Insurance premiums.
- 6 (4) Utility payments or utility connection charges.
- 7 (5) Federal grant programs if:
 - 8 (A) advance funding is not prohibited; and
 - 9 (B) the contracting party provides sufficient security for the
 - 10 amount advanced.
- 11 (6) Grants of state funds authorized by statute.
- 12 (7) Maintenance agreements or service agreements.
- 13 (8) Lease agreements or rental agreements.
- 14 (9) Principal and interest payments on bonds.
- 15 (10) Payroll.
- 16 (11) State, federal, or county taxes.
- 17 (12) Expenses that must be paid because of emergency
- 18 circumstances.
- 19 (13) Expenses described in an ordinance.
- 20 **(14) Meal expense advances to town employees who will be**
- 21 **traveling on official business of the town.**
- 22 (c) Each payment of expenses under this section must be supported
- 23 by a fully itemized invoice or bill and certification by the fiscal officer.
- 24 (d) The town legislative body or the board having jurisdiction over
- 25 the allowance of the claim shall review and allow the claim at the
- 26 body's or board's next regular or special meeting following the
- 27 preapproved payment of the expense.
- 28 SECTION 52. IC 36-7-15.1-26.9 IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26.9. (a) The
- 30 definitions set forth in section 26.5 of this chapter apply to this section.
- 31 (b) The fiscal officer of the consolidated city shall publish in the
- 32 newspaper in the county with the largest circulation all determinations
- 33 made under section 26.5 or 26.7 of this chapter that result in the
- 34 allowance or disallowance of credits. The publication of a
- 35 determination made under section 26.5 of this chapter shall be made
- 36 not later than June 20 of the year in which the determination is made.
- 37 The publication of a determination made under section 26.7 of this
- 38 chapter shall be made not later than December 5 of the year in which
- 39 the determination is made.
- 40 (c) If credits are granted under section 26.5(g) or 26.5(h) of this
- 41 chapter, whether in whole or in part, property taxes on personal
- 42 property (as defined in IC 6-1.1-1-11) that are equal to the aggregate

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amounts of the credits for all taxpayers in the allocation area under section 26.5(g) and 26.5(h) of this chapter shall be:

- (1) allocated to the redevelopment district;
- (2) paid into the special fund for that allocation area; and
- (3) used for the purposes specified in section 26 of this chapter.

(d) The county auditor shall adjust the estimate of assessed valuation that the auditor certifies under IC 6-1.1-17-1 for all taxing units in which the allocation area is located. The county auditor may amend this adjustment at any time before the earliest date a taxing unit must publish the unit's proposed property tax ~~rate~~ **levies** under IC 6-1.1-17-3 in the year preceding the year in which the credits under section 26.5(g) or 26.5(h) of this chapter are paid. The auditor's adjustment to the assessed valuation shall be:

- (1) calculated to produce an estimated assessed valuation that will offset the effect that paying personal property taxes into the allocation area special fund under subsection (c) would otherwise have on the ability of a taxing unit to achieve the taxing unit's tax levy in the following year; and
- (2) used by the county board of tax adjustment, the department of local government finance, and each taxing unit in determining each taxing unit's tax rate and tax levy in the following year.

(e) The amount by which a taxing unit's levy is adjusted as a result of the county auditor's adjustment of assessed valuation under subsection (d), and the amount of the levy that is used to make direct payments to taxpayers under section 26.5(h) of this chapter, is not part of the total county tax levy under IC 6-1.1-21-2(g) and is not subject to IC 6-1.1-20.

(f) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5-3 and IC 6-1.1-19-1.5 do not apply to ad valorem property taxes imposed that are used to offset the effect of paying personal property taxes into an allocation area special fund during the taxable year under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter. For purposes of computing the ad valorem property tax levy limits imposed under IC 6-1.1-18.5-3 and IC 6-1.1-19-1.5, a taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed to offset the effect of paying personal property taxes into an allocation area special fund under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter.

(g) Property taxes on personal property that are deposited in the allocation area special fund:

- (1) are subject to any pledge of allocated property tax proceeds

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made by the redevelopment district under section 26(d) of this chapter, including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area; and

(2) may not be treated as property taxes used to pay interest or principal due on debt under IC 6-1.1-21-2(g)(1)(D).

SECTION 53. IC 36-8-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing ~~him~~ **the member** to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body ~~before~~

~~(1) September 20 for a second class city; and~~

~~(2) September 20 for a third class city;~~

not later than September 30 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

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1 (g) The police chief has exclusive control of the police department,
2 and the fire chief has exclusive control of the fire department, subject
3 to the rules and orders of the safety board. In time of emergency, the
4 police chief and the fire chief are, for the time being, subordinate to the
5 city executive and shall obey ~~his~~ **the city executive's** orders and
6 directions, notwithstanding any law or rule to the contrary.

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